

**FILED****MARCH 4, 2010**KAREN S. MITCHELL  
CLERK, U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION

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HOWARD LEE BARNES, PRO SE,	§	
also known as	§	
PROFESSOR NFN ALI-HAMZA,	§	
TDCJ-CID No. 647284,	§	
Previous TDCJ-CID No. 483857,	§	
County No. 9807,	§	
	§	
Plaintiff,	§	
	§	
v.	§	2:09-CV-0210
	§	
BRAD LIVINGSTON ET AL.,	§	
	§	
Defendants.	§	

**ORDER DENYING MOTION TO PROCEED IN FORMA PAUPERIS  
AND ORDER OF DISMISSAL**

Plaintiff HOWARD LEE BARNES, while a prisoner housed in the Texas Department of Criminal Justice, Correctional Institutions Division, has filed suit pursuant to Title 42, United States Code, Section 1983 complaining against the above-named defendants and requesting permission to proceed in forma pauperis.

On November 19, 2009, a Report and Recommendation was issued by the United States Magistrate Judge analyzing plaintiff's litigation history and concluding he is barred from proceeding in forma pauperis in the instant cause pursuant to Title 28, United States Code, section 1915(g). The Magistrate Judge recommended that plaintiff's request to proceed in forma pauperis be denied and the instant cause be dismissed for failure to pay the filing fee. Plaintiff was given fourteen days in which to pay the filing fee or file his objections to the Report and Recommendation.

The response period has expired, and no objections have been filed by plaintiff nor has the filing fee been paid.

The Court has made an independent examination of the records in this case and has examined the Magistrate Judge's Report and Recommendation. The Court is of the opinion that the Report and Recommendation of the United States Magistrate Judge should be ADOPTED by the United States District Court.

This Court, therefore, does hereby ADOPT the Report and Recommendation of the United States Magistrate Judge in this case.

Plaintiff's motion to proceed in forma pauperis is DENIED.

IT IS THEREFORE ORDERED that the Civil Rights Complaint filed pursuant to Title 42, United States Code, section 1983, by plaintiff HOWARD LEE BARNES is DISMISSED WITHOUT PREJUDICE TO REFILE WITH PREPAYMENT OF THE FILING FEE. 28 U.S.C. § 1915(g).

LET JUDGMENT BE ENTERED ACCORDINGLY.

The Clerk will mail a copy of this Order to the plaintiff and to any attorney of record by first class mail.

IT IS SO ORDERED.

Signed this the 4<sup>th</sup> day of March, 2010.

/s/ Mary Lou Robinson  
MARY LOU ROBINSON  
United States District Judge